

Misbranding of the article was alleged in the information for the reason that the statements, to wit, "Guaranteed Analysis: Protein, not less than 43 per cent" and "Weight 100 Pounds Net," borne on the tags attached to the sacks containing the said article, were false and misleading in that the said statements represented that the article contained not less than 43 per cent of protein and that each of the said sacks contained not less than 100 pounds net weight of the article, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 43 per cent of protein and that each of the said sacks contained not less than 100 pounds net weight of the said article, whereas, in fact and truth, the said article did contain less than 43 per cent of protein, to wit, 40.73 per cent of protein, and each of said sacks did not contain 100 pounds net weight of the article, but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 12, 1924, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$150.

HOWARD M. GORE, *Secretary of Agriculture.*

**12434. Adulteration and misbranding of butter. U. S. v. 403 Cases and 7 Tubs of Butter. Decree of condemnation and forfeiture. Product released under bond to be reworked. (F. & D. No. 18862. I. S. Nos. 2458-v, 2460-v, 2461-v, 2462-v, 2463-v, 2464-v. S. No. E-4924.)**

On July 14, 1924, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 403 cases (consisting of 5 lots containing 234, 46, 58, 50, and 15 cases), each containing 30 pounds, and 7 tubs, each containing 61 pounds of butter, remaining in the original unbroken packages at Buffalo, N. Y., alleging that the article had been shipped by the Minnesota Creamery & Produce Co., St. Paul, Minn., June 20, 1924, and transported from the State of Minnesota into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act as amended.

Adulteration of the article was alleged in the libel for the reason that a product deficient in butterfat and containing excessive moisture had been mixed and packed with and substituted wholly or in part for the said article, and for the further reason that a valuable constituent, butterfat, had been wholly or in part abstracted.

Misbranding was alleged with respect to all the said butter for the reason that it was an imitation of and offered for sale under the distinctive name of another article. Misbranding was alleged with respect to the product contained in the said 403 cases for the further reason that the statements, "Butter" and "Extra Fancy \* \* \* Creamery Butter," appearing in the labeling of 234 cases of the article, the statement "Butter," appearing in the labeling of 46 cases of the article, the statements, "Butter Quarters" and "Net Weight \* \* \* One Pound \* \* \* Extra Fancy \* \* \* Creamery Butter," appearing in the labeling of 58 cases of the article, the statements, "Butter" and "Pure Creamery Butter \* \* \* Co. Buffalo," appearing on 50 cases of the article, and the statements, "Butter Quarters" and "Pure Creamery Butter \* \* \* Co. Buffalo \* \* \* One Pound Net Weight," appearing in the labeling of 15 cases of the article, regarding the said article and the ingredients or substances contained therein, were false and misleading and deceived and misled the purchaser. Misbranding was alleged with respect to the said 58 cases of the product for the reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement was not correct. Misbranding was alleged with respect to the said 50 cases and 15 cases of the product for the further reason that it was falsely branded as to the manufacturer and as to the place in which it was manufactured or produced.

On July 18, 1924, the Minnesota Creamery & Produce Co., St. Paul, Minn., having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$5,000, in conformity with section 10 of the act, conditioned in part that the product be reworked under the supervision of this department.

HOWARD M. GORE, *Secretary of Agriculture.*